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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/370,776	08/09/1999	TATSUYA KUBOTA	450108-4457	8487

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NEW YORK, NY 10151

EXAMINER

MEISLAHN, DOUGLAS J

ART UNIT PAPER NUMBER

2137

DATE MAILED: 04/07/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/370,776

Applicant(s)

KUBOTA ET AL.

Examiner

Douglas J. Meislahn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-7, 120, and 121 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-7, 120 and 121 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Request for Reconsideration

1. This action is in response to the request for reconsideration filed 26 January 2004. Applicant's explanation of the use of the term "substantially" in claims 1 and 120 has overcome the 112 rejection.

Response to Arguments

2. Applicant's arguments filed 26 January 2004 have been fully considered but they are not persuasive. On page 3 of the response, applicant argues that "Yanagidaira does not teach the concept of scrambling." In lines 14-25 of the first column, Yanagidaira clearly teaches the concept of scrambling. Furthermore, this section clearly shows that jamming is a type of scrambling. Applicant goes on to say that "Yanagidaira discloses the concept of jamming signals (column 7, lines 18-22), which is not the same as the concept of scrambling keys." Applicant's rationale for the difference between jamming signals and scrambling is that jamming signals "inform receiving data stations that they must not transmit data." This conceptualization of jamming is not supported by the cited sections of Yanagidaira. Instead, the cited sections of Yanagidaira teach jamming as adding a signal, possibly noise, to data. Noise used to obscure data, as done in scrambling, is a key. As such, Yanagidaira teaches multiple scrambling keys.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-7, 120, and 121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurihara (6069956) in view of Yanagidaira et al. (5367269).

Element 21 of figure 2 in Kurihara anticipates scramble key generation means. Lines 63-64 of column 7 anticipate periodic scramble key updates. Lines 19-26 of column 16 anticipate scramble means. Kurihara does not say that different keys are used to scramble different parts of the program where the different parts are output substantially simultaneously. In lines 18-22 of column 7, Yanagidaira et al. teaches scrambling audio data with a first oscillator and video data with a different oscillator. While Yanagidaira et al. specifically note that this technique eliminates blank periods, a person of ordinary skill in the art would also readily appreciate that, on a broader level, use of two different oscillators, both of which scrambles a distinct portion of the data, would improve security. Complete recovery of the data would require breaking two, instead of one, scrambling. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to separately scramble different parts of Kurihara's signal as taught by Yanagidaira et al., thereby increasing security.

With respect to claim 120, lines 28-29 of column 10 show an enciphered scramble key. Element 16 anticipates claim 121.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

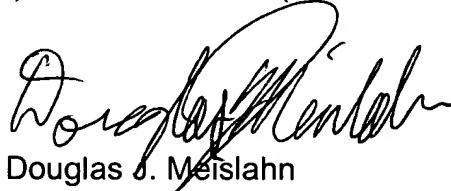
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Meislahn whose telephone number is (703) 305-1338. The examiner can normally be reached on between 9 AM and 6 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A. Morse can be reached on (703) 308-4789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Douglas J. Meislahn
Examiner
Art Unit 2137

DJM